

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JUSTIN DANIELY,

Plaintiff,

**STIPULATION OF
SETTLEMENT AND
DISCONTINUANCE**

-against-

11 CV 3257 (ARR) (JMA)

THE CITY OF NEW YORK, POLICE OFFICER
ANSARI KALIL, tax # 937096, POLICE OFFICER
ANGELO PIZZARO, tax # 937294,

Defendants.

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WHEREAS, plaintiff JUSTIN DANIELY commenced this action by filing a Complaint on or about July 7, 2011, and an Amended Complaint on or about November 3, 2011 (hereinafter referred to collectively as the "Complaint"), alleging that defendants violated his federal civil and state common law rights; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability; and

WHEREAS, plaintiff has authorized counsel to settle this matter on the terms set forth below;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed against defendants, with prejudice, and without costs, expenses, or attorneys' fees in excess of the amount specified in paragraph "2" below.

2. Defendant The City of New York agrees to pay plaintiff JUSTIN DANIELY the sum of TWENTY FOUR THOUSAND DOLLARS (\$24,000.00), in full satisfaction of all claims, including claims for costs, expenses and attorneys' fees. In consideration for the payment of this sum, plaintiff agrees to dismissal of all of the claims brought against defendants THE CITY OF NEW YORK, POLICE OFFICER ANSARI KALIL, Tax ID # 937096, and POLICE OFFICER ANGELO PIZZARO, Tax ID # 937294, and to release and discharge all defendants, and any present or former employees and agents of the City of New York, or any entity represented by the Office of the Corporation Counsel, from any and all liability, claims, or rights of action alleging a violation of plaintiff's civil rights, from the beginning of the world to the date of the General Release, including claims for costs, expenses, and attorneys' fees.

3. Plaintiff shall execute and deliver to the defendants' attorney all documents necessary to effect this settlement including, without limitation, a General Release based on the terms of paragraphs "2" and "3" above and an Affidavit of Status of Liens. If Medicare has provided payment and/or benefits for any injury or condition that is the subject of this lawsuit, prior to tendering the requisite documents to effect this settlement, plaintiff shall have notified Medicare and shall submit with the settlement documents a Medicare final demand letter for conditional payments. A Medicare Set-Aside Trust may also be required if future anticipated medical costs are found to be necessary pursuant to 42 U.S.C. §1395y(b) and 42 C.F.R. §§411.22 through 411.26.

4. Nothing contained herein shall be deemed to be an admission by the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of

7. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

THE LAW FIRM OF RICHARD J.
CARDINALE
Attorney for Plaintiff

By: 

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Dated: New York, New York
_____, 2011

MICHAEL A. CARDOZO
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Dated: New York, New York
December 12, 2011

SO ORDERED:

Dated: New York, New York

_____, 2011

HON. ALLYNE R. ROSS
UNITED STATES DISTRICT JUDGE